Internet Freedom Manifesto

網絡自由宣言 2016



鍵盤戰線
KEYBOARD FRONTLINE



Internet Freedom Manifesto by Keyboard Frontline

FOREWORDS

Internet freedom is of vital importance to Hong Kong, not only because it is part of our fundamental human rights, but also because it spurs innovation and benefits our economy. In light of the coming election of the Legislative Council in September this year, Keyboard Frontline ("KBFL") sees this as the golden opportunity to promote the value of internet freedom among political parties and the general public.

As of the date of this Manifesto, none of the political parties or groups has adopted any political agenda or policy in relation to internet freedom with a long-term objective. Therefore, the objective of this Internet Freedom Manifesto is to serve as a guideline for political parties to formulate their own internet freedom policy.

The Internet Freedom Manifesto consists of 9 principles in 3 areas, viz. Free Internet, Online Press Freedom and Open Digital Economy. KBFL considers the nine principles in these areas are particularly essential to a free society and encourages political parties to include them in their own political agenda or policy. Subsections under each article provide the details of the principles. Political parties, groups and individuals may choose any subsections to be adopted in their agenda or policy as they see fit.

Last but not least, these nine principles will be the guiding criteria for KBFL to rate the agenda or policies of each political party, group and individual. KBFL will publish a report on the political parties' adoption of the principles under this Internet Freedom Manifesto in August 2016.

KBFL sincerely hopes that the Internet Freedom Manifesto will help all parties in drafting their own policy for Internet Freedom with a view to promote the values of internet freedom.



June 2016



PREAMBLE

The Internet Freedom Manifesto consists of nine principles in three areas, viz. Free Internet, Online Press Freedom and Open Digital Economy:-

A. WHEREAS an open and free internet is crucial for everyone, it helps to foster cultural growth, motivate innovation, facilitate social communications, advance economic development etc.;

B. WHEREAS the online media have become one of the most essential watchdogs of the government, their rights must not be prejudiced or undermined. Equal rights of journalists of the online media must be upheld; and

C. WHEREAS political parties should take a proactive role to promote free digital economy, responsible use of data and transparency in governance to create a business friendly yet responsible culture for this new era of digital economy.

Therefore, a good policy and agenda regarding internet freedom should be adopted to keep abreast of the rapid change of the development of internet and respond to the growing demand of the netizens to safeguard their rights on the internet.



Article 1

INTERNET FREEDOM OF SPEECH AND EXPRESSION

PRINCIPLE: FREEDOM OF SPEECH AND EXPRESSION ON THE INTERNET MUST BE PROTECTED.

1. Netizens enjoy the rights to express opinions, publish materials on or upload and download information to/ from the internet.
2. Netizens have the right to protest on the internet;
3. No one should be compelled to remove contents from the internet except per orders by the courts of competent jurisdiction.
4. Netizens enjoy the rights to create and innovate without restriction to creativity. Fair use of the copyrighted works on the internet should be promoted with the objective to safeguard free speech on the internet.
5. All works of the government should automatically enter the public domain and be permitted to use freely by the general public under the copyright law.
6. No measures that may undermine the rights under this Article 1 should be adopted on the internet, including censorship, criminalising private communication or copyright infringement of an individual, blocking websites, monitoring online activities, limiting or disconnecting access of internet etc..

Article 2

UNIVERSAL ACCESS TO INTERNET

PRINCIPLE: INTERNET SHOULD BE AN OPEN NETWORK THAT ALLOWS ACCESS BY NETIZENS WITHOUT LIMITATION.

1. Net neutrality law or policy should be promoted and legislated. After access of internet is offered for free or a fee, no limitation or tiering on the access, usage volume or speed due to any contents or online services should not be permitted.
2. When internet service is offered as a paid service, no penalty of suspension or restriction of the access of internet should be imposed by any person or entity.
3. Suspension, termination or restriction on the access to internet should not be legislated as a penalty under the law or be the remedy to be imposed by courts.
4. No component, configuration or code should be allowed to be installed, added, implanted, destructed, removed, activated, deactivated or otherwise put in a device to restrict operation of a device to access to internet unless for the protection of the rights of the netizens in good faith.





Article 3
INTERNET PRIVACY

PRINCIPLE: NETIZENS HAVE THE RIGHTS TO PRIVATE COMMUNICATIONS ON THE INTERNET.



1. Online privacy is the fundamental right of the netizens. Netizens may protect their internet privacy by means of encryption or cryptography.
2. Anonymity of the identity on the internet is a right of internet privacy.
3. All data, information or networks on the internet which is owned by or relating to a netizen should be protected by this Article.



Article 4
FREEDOM OF ACCESS TO INFORMATION

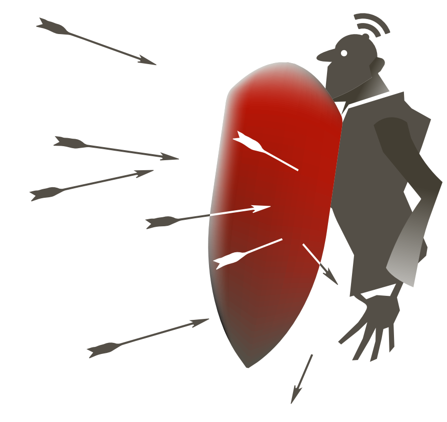
PRINCIPLE: NETIZENS HAVE THE RIGHT TO ACCESS ALL DATA AND INFORMATION RELATING TO THEMSELVES.

1. Netizens have the right to access to all data and information relating to them which are in the possession of the government authorities, telecommunications companies, internet service providers, online service providers or other entities etc.
2. Netizens have the right to request correction of inaccurate data or information relating to such netizens.

Article 5
RIGHT TO A SAFE AND SECURE INTERNET

PRINCIPLE: NO NETIZEN SHOULD BE SUBJECT TO SECURITY THREAT ON THE INTERNET, INCLUDING IDENTITY FRAUD, MALICIOUS HACKING, UNAUTHORISED ACCESS OF HIS DATA, NETWORK AND DEVICES, ETC.

1. Netizens have the right to use encryption and cryptography of any grade or type. Implementation and dissemination of encryption and cryptographic systems must not be restricted or weakened.
2. Every netizen has the right to employ measures to protect the security of his data, network and devices, whether physical or electronic.
3. Any entities which retain data or information relating to a netizen must employ sufficient security measures to keep the data or information secure.
4. Any incident resulting in unauthorised access or leakage of data or information of a netizen should be notified to such netizen as soon as possible and reported to the relevant regulatory bodies or enforcement agencies according to the requirements of the laws and regulations.



SECTION II

ONLINE PRESS FREEDOM

Article 6

EQUAL RIGHTS OF ONLINE MEDIA

PRINCIPLE: ONLINE MEDIA ENJOY THE SAME RIGHTS AND PROTECTION OF THE CONVENTIONAL MEDIA.

1. Journalists of online media should be admitted to all press events without discrimination.
2. Journalists of online media should be treated equally without additional restrictions imposed on them in performing their duties as journalists.
3. Press release or information of the government authorities should be made available to all online media.
4. Online media enjoy the same rights of professional privilege of information. Unless with a court warrant or order, no online media should be compelled to divulge the source of information.
5. With an acknowledgment of the original work, online media may use any copyrighted work for the purpose of reporting or commenting on the current events.



Article 7
FREEDOM OF DIGITAL ECONOMY

PRINCIPLE: APPROPRIATE POLICIES, REGULATIONS, CODES OF PRACTICE OR LEGISLATIONS SHOULD BE SUPPORTED, ENACTED AND IMPLEMENTED TO PROMOTE FREEDOM OF DIGITAL ECONOMY.

1. A free digital economy should encourage the business model of online sharing economy.
2. Use of cryptocurrency, digital means of payments and other relevant technologies should be recognised, encouraged and adopted by the government and entities to facilitate the transition to a cashless society that improves efficiency, transparency and accountability.
3. Netizens and entities enjoy the freedom to finance on the internet to support a project, campaign or entities.
4. A regulatory sandbox policy should be adopted to allow all kinds of startups a safe space to experiment with innovative products and services without regulatory pressure.
5. Safe harbour provisions should be adopted in relevant laws or regulations to provide protection to the intermediaries that provide internet or online services. Subject to the safe harbour principles, intermediaries shall not have any civil or criminal liability for contents that are not under their control.
6. Any policies, regulations, code of practice and legislations regarding digital economy should take into account of the rights of the netizens herein.



Article 8
RESPONSIBLE USE OF DATA

PRINCIPLE: USE OF DATA AND INFORMATION SHOULD BE FOR THE GOOD OF THE GENERAL PUBLIC AND FOR THE BENEFIT OF SOCIETY AS A WHOLE.

1. With appropriate security measures, sufficient notification and protection of the rights of the subject matter, free flow of information across border should be permitted.
2. Use of anonymised data for the purposes of historical or scientific research or statistics should be permitted.
3. To encourage public and private sectors to develop, publish and embrace the use of open data by means of promulgating policies or legislations and providing appropriate incentives.





Article 9

TRANSPARENCY AND ACCOUNTABILITY

PRINCIPLE: GOVERNMENT AUTHORITIES AND ENTITIES SHOULD IMPLEMENT TRANSPARENCY IN GOVERNANCE.

1. Government authorities and entities should develop and maintain a system, website or application that allows the general public to exercise their rights of access of information and ensures mandatory written reply to such request within a reasonable time.
2. Government should regularly make available to the public the data and information in its possession, custody or control for free.
3. Format made available to the general public regarding the data and information should be in machine-readable medium with open licences in order to keep abreast of the development of technology.
4. Legislations to archive and publish data, information, records or documents in any formats that are in the possession, custody or control of the government should be enacted.
5. Entities should regularly publish a transparency report on the requests made by the enforcement agencies to access information of netizens and to remove contents online.
6. To the extent permitted by law, government authorities which make the data access requests or content removal requests in relation to a netizen should provide a notice to such netizen within a reasonable time after such request is made.

EXPLANATORY NOTES

ARTICLE 1 INTERNET FREEDOM OF SPEECH AND EXPRESSION

Note 1: Article 27 of the Basic Law protects the freedom of speech and of publication. Articles 16(1) and (2) under section 8 of the Bill of Rights (Cap 486)("BoR") echo with Article 18 of the International Covenant on Civil and Political Rights ("ICCPR") in which it guarantees citizens of Hong Kong the right to hold opinions without interference. Moreover, under subsection (2) of Article 16 of the BoR, everyone shall have the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. Therefore, citizens enjoy the same right in the media online to express their opinions freely and protest via means on the internet.

Note 2: Furthermore, Article 34 of the Basic Law guarantees the freedom to engage in literary and artistic creation, and other cultural activities. Hence, the creativity of netizens must also be protected. In 2016, during the copyright amendment bill 2015, the demand for a more relaxed copyright law regime and the adoption of an open-end exemption therein were very clear. Among all these open-ended exemptions, Fair Use exemption is the most widely-accepted doctrine in society. Use of copyrighted work should be promoted in accordance with the Fair Use principles to strike a balance between the netizens and the copyright owners.

Note 3: Under section 105 of the Copyright Act of the United States, works prepared by an officer or employee of the federal government of the United States are not entitled to domestic copyright protection under U.S. law and are therefore in the public domain; Whereas the UK Government has developed a trend of automatically licensing all works published on GOV.UK and The National Archives under The Open Government Licence.

Note 4: In addition, section 161 of the Crimes Ordinance (Cap 200) ("CO"), the offence of Access to Computer with Criminal or Dishonest Intent, has been abused by the enforcement agencies to lay charges against netizens. In many cases, the use of this offence by the authorities has already departed from its original legislative intent (Reference: opinion statement on the applicability of section 161 submitted by KBFL to the Legislative Council and Security Bureau on the 2nd of June 2015 http://www.legco.gov.hk/yr14-15/chinese/panels/se/papers/se20150602cb2-1605-1-c.pdf). The abuse of section 161 is a serious threat to the freedom of speech and expression on the internet and has already caused the chilling effect among netizens. Therefore, it is of paramount importance to limit the applicability of the offence to its original legislative intent to safeguard free speech on the internet.

ARTICLE 2 UNIVERSAL ACCESS TO INTERNET

Note 5: Network neutrality is the idea that internet service providers, including telecommunications companies ("ISPs"), should treat all data that travel over their networks fairly, without improper discrimination in favour of particular apps, sites or services. The principle ensures the equality of netizens to enjoy the open internet and protects universal access to the internet. Therefore, content blocking, throttling, and paid prioritisation of network traffic, including strict "forbearance" of internet speed restriction, should not be allowed because they pose serious threats to the universal access to internet, equality of netizens and the network neutrality.

ARTICLE 3 INTERNET PRIVACY

Note 6: Article 30 of the Basic Law ensures the freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences. Moreover, Article 14 of BoR and ICCPR Article 17 guarantee no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Note 7: The Personal Data (Privacy) Ordinance (Cap 486) ("PDPO") is the local law that protects the privacy of a Hong Kong citizen and such protection extends to the internet. Unfortunately, the Interception of Communications and Surveillance Ordinance (Cap 589) ("ICSO") does not provide the same level of protection to the data and communications on the internet. Government authorities may still request the access of data, information and communications without a court warrant.

Note 8: Therefore, the anonymity of a netizen must be protected. Any real-name policy adopted by internet service providers infringes the privacy of a netizen and must be opposed. Furthermore, request of the data and communications of the netizens on the internet or the network should be subject to the ICSO so that the ICSO could keep up with the development of technology to ensure the privacy of communications of the netizens.

ARTICLE 4 FREEDOM OF ACCESS TO INFORMATION

Note 9: Data Protection Principle 5 under Schedule 1 of the PDPO requires data user to inform the data subject what information are held and the purposes. Data Protection Principles 6 ensures the right of access of information relating to the data subject. This right should be extended to public service data, information on the internet and data relating to a netizen himself.

Note 10: Such right co-relates to Articles 8 and 9 in this Manifesto which promote the transparency in governance among government authorities and commercial entities.

ARTICLE 5 RIGHT TO A SAFE AND SECURE INTERNET

Note 11: Basic Law Article 17 protects a Hong Kong citizen from unlawful attacks on his honour and reputation and it gives the right to the protection of the law against such interference or attacks. In addition, section 161 of the CO prohibits unauthorised access of one's computer with criminal or dishonest intent. The original legislative intent was to target on unauthorised access of one's computer, malicious hacking and internet fraud.

Note 12: Accordingly, a safe and secure internet is under the protection of the law of Hong Kong. Only with a safe and secure internet, one may exercise other rights under this Manifesto freely without fear.

ARTICLE 6 EQUAL RIGHTS OF ONLINE MEDIA

Note: 13: Journalists shall include any person who perform the duties of news reporting, including but not limited to journalists of an online media, citizen journalists, freelance journalists or bloggers etc.

Note: 14: Under Article 27 of the Basic Law, freedom of press is guaranteed. Under Article 16 (2) of BoR and ICCPR Article 18, a citizen of Hong Kong enjoys the right to receive information through any other media of his choice.

Note 15: In the past years, online media were treated differently from the conventional journalists by the government. They were denied to participate in official government press conferences and access to information by the authorities. In the internet era, online media are of vital importance to play a role as a watchdog of the public servants due to their swift response to current events and extensive reach to the general public through the internet. Any hindrance to online journalists to perform their duties not only impairs the press freedom but also infringes the right to information of the citizens. Therefore, equal rights of online media must be upheld.

Note 16: Joint declaration to demand right to report by online media on 11 March 2016 聯署聲明：立即開放網媒及公民記者採訪權 http://www.inmediahk.net/node/1041170 .

ARTICLE 7 FREEDOM OF DIGITAL ECONOMY

Note 17: Sharing is a culture of the internet. The sharing economy on the internet is emerging fast and has become a strong force to contribute to and innovate the economy. Sharing transportation, accommodation, catering businesses etc. has already become a trend. Appropriate policies and legislation should be in place to promote such form of economy.

Note 18: Cryptocurrency and digital payment revolutionise our currency system and business model. This fast growing trend as seen by different types of payment method provides convenient and secure ways to trade and do business. Application of blockchain technology would be used not only to make the transactions secure but also transparent. This would also be used in many other aspects, for example, legal services.

Note 19: To facilitate start-up and innovative initiatives, citizens should be allowed to finance and transform ideas to businesses. A good policy or law for crowdfunding and peer-to-peer finance will help citizens advance their creativity and encourage entrepreneurship.

Note 20: A regulatory sandbox is a 'safe space' in which businesses can test innovative products, services, business models and delivery mechanisms without immediately incurring all the normal regulatory consequences of engaging in the activity in question. The benefits could be found in a study of the Regulatory Sandbox published by Financial Conduct Authority of the United Kingdom in November 2015: https://www.fca.org.uk/static/documents/regulatory-sandbox.pdf. UK Financial Conduct Authority's regulatory sandbox opens to applications on 9th May 2016: http://www.fca.org.uk/news/fca-regulatory-sandbox-opens-to-applications.

ARTICLE 8 RESPONSIBLE USE OF DATA

Note 21: Information and data should be allowed to be transferred to other countries if sufficient security measures are taken and to a country with good data protection laws. Prohibition of transfer of data hurts the free flow of information and does not necessarily provide greater protection of data.

Note 22: Big data and anonymised data should be promoted to be used for the purposes of advancing the development and the benefits of society without restrictions in accordance with section 62 of the PDPO.

ARTICLE 9 ACCOUNTABILITY

Note 23: Despite the fact that there is a code of practice in relation to the right of access to information in which it allows the general public to request information from the government, the government should take a more proactive role to publish data that are in its possession, custody or under its control regularly, so that the citizens may use and process such data freely. Archive law and Freedom of Information law will assist the government to implement systematic ways to archive and make available of the data, information, records and documents etc..

Note 24: Entities that handle data or information of the citizens in Hong Kong have the corporate responsibility to the general public to make available those information to be accessed in accordance with the Data Protection Principles 5 and 6 under Schedule 1 of the PDPO.

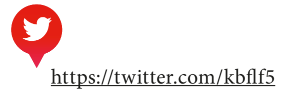
Note 25: Transparency in governance is an important element to build trust between the customers and the entities. Regular publication of a transparency report on the request of access of information by the enforcement agencies gives the general public the confidence and benefits the business continuity. Therefore, an entity that handles personal data of the citizens should publish a transparency report regularly.



Keyboard Frontline was founded in the year of 2011 to fight for greater user rights under the 2012 Copyright amendment bill (also known as the Internet Article 23) for netizens.

Believing that the rights of netizens are of vital importance, Keyboard Frontline devotes its time and effort in the defense of these rights. By organising varies activities, for example, protests, exhibitions, discussion forums, online lobbying, etc., we aim to arouse public awareness of the importance of internet freedom, and ultimately to create a free and open internet environment in Hong Kong.

https://kbfl.org


https://twitter.com/kbflf5

https://www.facebook.com/KeyboardFrontline

SAMPLE SCORECARD FOR INTERNET FREEDOM POLITICAL AGENDA
網絡自由宣言評分卡樣本

Article 條款	Principle 原則
Article 1 Internet Freedom of Speech and Expression 第一條 網絡言論及表達自由	Freedom of speech and expression on the Internet must be protected. 網絡上的言論及表達自由必須受到保障
Article 2 Universal Access to Internet 第二條 普及互聯網	Internet should be an open network that allows access by netizens without limitation. 互聯網應是開放的網絡，開放的網絡容許網民不受限制地連接
Article 3 Internet Privacy 第三條網絡私隱	Netizens have the rights to private communications on the Internet 網民有權於網上進行私人通訊
Article 4 Freedom of Access to Information 第四條 獲取資訊的自由	Netizens have the right to access all public service data, information on the internet and data relating to themselves. 網民有權獲取所有公共服務的數據及與其自身相關的任何資訊或資料
Article 5 Right to a Safe and Secure Internet 第五條 連接安全可靠網絡的權利	No netizen should be subject to security threat on the internet, including identity fraud, malicious hacking, unauthorised access of his data, network and devices, etc. 網民的網路安全不應受到任何形式的威脅，包括身份欺詐、惡意網絡攻擊、未經授權取用他人數據、網絡和裝置
Article 6 Equal Rights of Online Media 第六條 網絡媒體的權利平等	Online media enjoy the same rights and protection of the conventional media. 網絡媒體理應享有和傳統媒體同等的權利和保護
Article 7 Freedom of Digital Economy 第七條 數碼經濟自由	Appropriate policies, regulations, codes of practice or legislations should be supported, enacted and implemented to promote freedom of digital economy. 支持立法及實施合適的政策、條例或行業準則，以推動數碼經濟自由
Article 8 Responsible Use of Data 第八條 負責任地使用數據	Use of data and information should be for the good of the general public and for the benefit of society as a whole. 數據和資料的使用應以公眾和整個社會整體的利益為依歸
Article 9 Transparency & accountability 第九條 問責機制	Government authorities and entities should implement transparency in governance. 政府當局及機構和應該落實管治的透明度



Any subsections of the principles adopted in the agenda 有沒有任何原則下的條文採於納政綱內	Comments 評論



鍵盤戰線（下稱「鍵戰」）創立於2011年，是一個矢志保護網絡自由的組織。鍵戰成立之初的主要工作是處理2012年的版權條例修訂草案，即坊間俗稱的「網絡廿三條」，以保障網民的言論及創作自由。

鍵戰堅信網民的權利不應受到任何形式，不論是版權法、私隱法等的過份干預，因此我們十分關注各種有可能影響到網民權利的議題。我們希望透過參與及舉辦各種活動，例如遊行、論壇、立法諮詢之類的活動，喚起公眾對網絡自由的關注，從而建構一個開放及自由的網絡社會。

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註釋

第一條　網絡言論及表達自由

註釋1：　基本法第27條保護言論和出版自由。人權法第8部下面第16條 (1) 和 (2) 比照《公民權 和政治權 國際公約》第18條保障香港公民享有意見不受干預的權利。另外，人權法第16條 (2) 賦予所有人發表自由之權 ；此種權 包括以語言、文字或出版物、藝術或自己選擇之其他方式， 分國界，尋求、接受及傳播各種消息及思想之自由。所以，公民在網絡媒體上享有同等權利去自由表達意見和在網絡上抗議。

註釋2：　基本法第34條確保從事文學和藝術創作以及其他文化活動的自由。因此網民的創意亦必須被保護。至2016年初，《2014年版權 (修訂) 條例草案》，社會各界清楚表達要求一套寬鬆的版權法和採納開放式豁免制度。環顧各地及所有的開放式制豁免，公平使用豁免亦是各地最廣為接納的方案，並取得網民與版權擁有人平衡。

註釋3：　根據美國版權法第105條，由聯邦政府官員或僱員創作的作品在美國都不受該地方的版權法保護，因此所有作品都自動進入公共領域。而英國政府則傾向自動授權政府於英國政府網站的作品及以開放授權國立存檔的作品。

註釋4：　另外，刑事罪行條例第161條《有犯罪或不誠實意圖而取用電腦》（坊間簡稱「不誠實使用電腦」）已被執法機關濫用於控告網民，且明顯偏離立法原意；情況見諸於不同個案 (參考：鍵盤戰線就此條例向立法局保安事務委員會遞交之意見書。[立法會CB(2)1605/14-15(01)號文件] (*http://www.legco.gov.hk/yr14-15/chinese/panels/se/papers/se20150602cb2-1605-1-c.pdf*) 。濫用第161條是對網絡言論和表達自由的嚴重威脅，並已對網民造成寒蟬效應，因此嚴格限制檢控單位按照此條例的立法原意提告極為重要。

第二條　普及互聯網

註釋5：　網絡中立的原意是指網絡服務供應商 (ISP) ，包括電訊公司，應該公平對待所有通過其網絡的數據，而不會因個別應用程式、網站或者服務而有不當的區別處理。此原則確保網民使用開放的互聯網的平等權利，並保障互聯網的普及。因此應禁止內容封鎖、網絡流量限制、網絡通道收費優先，包括嚴格的「網絡速度延誤」等限制。因為這是對互聯網普及，網民平等以及網絡中立的嚴重威脅。

第三條　網絡私隱

註釋6：　基本法第30條確保所有香港居民的通訊自由及私隱受法律保護。任何部門或個別人士均不得以任何理由侵犯香港居民的通訊自由及私隱，除非有關當局以達到公共安全或調查刑事罪案目的為由，經法定程序獲准查核該通訊。再者，《香港人權法案條例》第14條及《公民權利和政治權利國際公約》第17條保障受肆意或非法干擾其私隱；亦不能對其信譽及聲譽作出非法攻擊。任何人皆有權受法律保護免受此等干擾或攻擊。

註釋7：　《個人資料 (私隱) 條例》(第486章) 是為保障香港居民的私隱而設的法例，其保障包括互聯網上的個人私隱。可是，《截取通訊及監察條例》 (第589章) (下稱"ICSO") 並不提供同等保障予網絡上的數據和通訊。政府部門仍可在沒有法庭搜查令的情況下，要求索取數據、資料和通訊。

註釋8：　因此，網絡用戶的匿名性必須受保護。任何推行實名制度的互聯網服務供應商均會侵犯網絡用戶的私隱，必須予以廢除。再者，ICSO 應包括及處理有關網絡用戶之數據與通訊申請，令ICSO 能追上科技發展用以保障網絡用戶通訊的私隱。再者，審批及處理有關網絡用戶之數據與通訊申請應於 ICSO 配合，以便ICSO 能追上科技發展，藉此保障網絡用戶通訊的私隱。

第四條　獲取資訊的自由

註釋9：　個人資料私隱法下的保障資料原則第5條規定數據用戶必須通知數據主體什麼知料是被存取以及解釋原因。保障資料原則第6條確保數據主體擁有獲取資料自由的權利。此權利應擴展至公共服務數據、網上資料及與網絡用戶有關的數據。

註釋10：　此權利與本宣言的第8及9條密切相關，旨在推動政府和商業機構的管治透明度。

第五條　連接安全可靠網絡的權利

註釋11：　基本法第17條保護香港市民的尊嚴及名譽免受非法攻擊，並且提供法律保護權利抵制此等干擾或攻擊。再者，《刑事罪行條例》第161條禁止任何未經授權作犯罪或不誠實意圖地使用電腦。立法原意針對未經授權使用電腦，惡意黑客及網絡詐騙。

註釋12：　換言之，一個安全可靠的網絡受香港法例保護。 亦只有安全可靠的網絡，香港居民才可免於恐懼地行使本宣言中提及的權利。

第六條　網絡媒體的權利平等

註釋13：　記者應包括所有從事新聞工作的人士，包括但不限於網絡媒體記者、民間記者、自由職業記者或博客等。

註釋14：　於基本法第27條下，新聞自由是受法律保障的。在權例法案第16條(2)和公民及政治權利國際公約第18條下，香港市民享有選擇任何媒體以獲取資料的權利。

註釋15:　過去幾年，特區政府對待網絡媒體相比於傳統媒體有一定的差別。 網絡媒體被有關政府當局拒絕參與官方新聞發佈會和取得相關資訊資料。在互聯網時代，網絡媒體能透過互聯網迅速就時事動態作回應，以及廣泛傳送訊息予大眾，使網絡媒體成為監察社會的重要一員。任何妨礙網絡記者履行他們職責的行為不單會危害新聞自由，更會損害香港市民獲取資訊的權利。因此，網絡媒體的平等權利亦應必然受到保障。

註釋16：　由多家香港網絡媒體於2016年3月11日發起之聯署聲明：立即開放網媒及公民記者採訪權 *http://www.inmediahk.net/node/1041170* .

第七條　數碼經濟自由

註釋17：　分享是一種網絡文化。這種正在崛起的網上共享經濟成為了推動創新經濟的動力。共享交通工具、住宿和餐飲等早已成為一種新趨勢。因此，各界應制訂適當的政策和法例推動這種經濟。

註釋18：　加密電子貨幣及電子付款正革新現今的貨幣制度和商業模式。這種付款模式能為貿易及業務提供方便和安全的交易渠道，令此種付款模式加速增長。區塊鏈技術應用於此付款模式不單止令交易買賣更可靠，並且能提升其透明度。這技術亦適用於其他方面，如法律服務等。

註釋19：　為了促進創業和創新事業，市民應可融資和將理念轉化為商機。良好的眾籌和伙伴間 (P2P) 融資政策或法例，有助市民發展其創造力和創業精神。

註釋20：　監理沙盒是一個能讓商業機構測試創新產品、服務、商業模式和傳遞機制的「安全地帶」，是使新創業者能測試新的金融產品及服務，而無需即時承受傳統監理規範的束縛。英國金融行為監管局於2015年11月發報對監理沙盒的研究，當中列明其好處: *https://www.fca.org.uk/static/documents/regulatory-sandbox.pdf*. 英國金融行為監管局於2016 年 5 月9 日正式採用監理沙盒：*http://www.fca.org.uk/news/fca-regulatory-sandbox-opens-to-applications*.

第八條　負責任地使用數據

註釋21：　若採取足夠的安全措施，資料及數據應容許傳送到具備完善的數據保護法的國家。禁止傳送數據損害資料流通，而不會加強數據保安。

註釋22：　根據《個人資料 (私隱) 條例》第 62 條，大數據及匿名數據應用於促進社會利益和發展。

第九條　問責機制

註釋23：　即使現時已設有實務守則闡釋有關公眾向政府部門索取公開資料的權利，政府應更積極並主動發布其擁有、保管、或定期受控制的數據，使市民能自由地使用或處理有關數據。檔案法和資訊自由法亦有助政府有系統地保存及公開數據、資訊、記錄和文件等。

註釋24：　根據《個人資料 (私隱) 條例》附表一內，保護資料原則第5和第6條，處理有關香港市民的數據和資料的機構對公眾負有企業責任，讓公眾可人查閱其有關資訊。

註釋25：　管治透明度乃機構與服務對象建立信任的關鍵元素。執法機構提供有關請求提取資料透明度的報告能給公眾信心以及能改善業務連續性。因此處理市民個人資料的機構應定期發表透明度報告。



第九條

問責機制

原則：政府當局及機構應該落實管治的透明度

1. 政府當局及機構應該製作並管理一個可以讓公眾行使其獲取資料的權利的系統、網站或者應用程式，並確保有關的資料查詢在合理時間內獲得書面回應。
2. 政府應免費並定期向公眾發佈其擁有、保管和控制的數據和資料。
3. 向公眾提供的數據和資料的格式應為機器易於讀取的開放授權格式，並保持與科技發展同步。
4. 就政府管有，保管和控制的任何格式的數據、資料、記錄或文檔如何保存和出版等行為立法規管。
5. 機構應定期發佈一份透明度報告，列出執法機構提出要求索取網民資料的情況。
6. 在法律容許的情況下，當任何機構需將一名網民的資料交予政府時，或處理有關該網民於網上發表的內容之移除要求後的合理的時間內，盡快通知該網民。

第三章
開放數碼經濟

第七條
數碼經濟自由
原則：支持立法及實施合適的政策、條例或行業準則，以推動數碼經濟自由

1. 自由數碼的經濟體制下，應鼓勵網上共享經濟的商業模式。
2. 政府及機構應接受、採用並推動如加密貨幣的數碼貨幣付款方式，以促進無現金社區的轉型，從而提高效率，透明度和問責度。
3. 網民和機構享有在互聯網上融資，以支持一個項目、活動或機構的自由。
4. 規管方面應該採取監理沙盒政策，使所有的新創業者有安全的空間實驗創新產品和服務而不受到監管壓力。
5. 應於法例或規則中，加入為網絡服務及網上服務中介平台而設的安全港條款。在該原則下，中介平台不會為他們不能控制的內容負上民事或刑事責任。
6. 任何關於數碼經濟的政策、條例、行業守則和法律都應顧及當中牽涉到的網民權益。



第八條
負責任地使用數據
原則：數據和資料的使用應以公眾和整個社會整體的利益為依歸

1. 在有適當的安全措施、足夠的通知和保護網絡權利的情況下，容許自由的跨境資訊流通。
2. 容許以科學、歷史的研究和統計為由使用匿名數據。
3. 制訂政策、法例及推出適當誘因，鼓勵公營及私營機構製作、公佈並利便第三方開發者善用開放資料。



第貳章

網絡新聞自由

第六條

網絡媒體的權利平等

原則：網絡媒體理應享有和傳統媒體同等的權利和保護

1. 網絡媒體記者應獲准參與新聞工作及採訪活動而不受歧視。
2. 網絡媒體記者應該獲得平等的對待，而不應在履行記者職責時被加諸額外的限制。
3. 政府及機構的新聞稿或消息應向所有網絡媒體發佈。
4. 網絡媒體享有同等的專業資料特權，除非有管轄權法院的授權或命令，不應強迫網絡媒體透露消息來源。
5. 媒體在作出確認原作品的聲明後，可使用任何版權作品作報道或評論時事用途。



第三條
網絡私隱
原則：網民有權於網上進行私人通訊



1. 網絡私隱是網民的基本權利，網民有權以密碼及其他加密技術保障其網上私隱。
2. 網民以匿名身份在網上活動是網絡私隱的權利。
3. 於互聯網上的任何資料、數據或網絡，只要是屬於或有關於任何一名網民即受本條文保障。

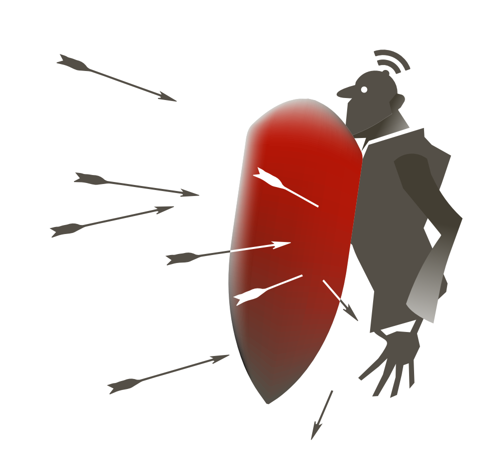


第四條
獲取資訊的自由
原則：網民有權獲取所有與其自身相關的資訊或資料

1. 當政府機構、電訊公司、網絡供應商、網上服務供應商或任何機構擁有與網民自身相關的任何資料或數據，網民都有權獲取。
2. 網民有權要求更正與其有關的任何錯誤資料或數據。

第五條
連接安全可靠網絡的權利
原則：網民的網路安全不應受到任何形式的威脅，包括身份欺詐、惡意網絡攻擊、未經授權取用他人數據、網絡和裝置

1. 網民有權使用任何等級和類型的加密及密碼技術。其使用的加密及密碼系統的實施和傳播不應被任何人限制或削弱。
2. 網民有權運用各種方式保護自己實體或電子的數據、網絡系統和裝置。
3. 任何保留關於網民的數據和訊息的機構必須採取足夠的措施確保數據和訊息的安全。
4. 一旦發生任何未經授權取用或者洩露網民的數據和資料之事故，有關網民都必須盡快被知會；並按照法例或守則要求，通報有關監管機構及執法部門。





第壹章

網絡自由

第一條　　　　　　網絡言論及表達自由

原則：網絡上的言論及表達自由必須受到保障

1. 網民享有表達意見、發佈、上載資訊及資料到網上與從網上下載資訊及資料的權利。
2. 網民有權利發起網上抗議。
3. 除非有管轄權的法院要求，否則無人有權強制移除任何於網上發佈的內容。
4. 網民享有不受任何限制地創作及創新的權利。在保障網絡言論自由的原則下，應推廣網上公平使用版權作品。
5. 所有政府作品應自動進入公共領域及容許公眾在版權條例下自由使用。
6. 任何應用於互聯網之措施都不應削弱第一條下賦予網民的權利，包括審查制度、刑事化任何個人的私人通訊或侵權行為、封鎖網站、監察網上活動、限制或截斷使用互聯網服務等。

第二條

普及互聯網

原則：互聯網應是開放的網絡，開放的網絡容許網民不受限制地連接

1. 訂立及推動網絡中立的政策和法例。不論是否收費，在獲得互聯網的使用權後，不應因網上的內容或服務有任何連接、流量或速度限制及級別之分。
2. 若網絡供應商提供付費的互聯網服務，則任何人士或機構均不應以限制網民連接互聯網或暫停使用網絡服務的權利為罰則。
3. 不應立法以暫停、終止或限制上網作為罰則或作為法庭頒令的彌償方案。
4. 除非真誠為保障網民的權益，任何人不得以安裝、加設、啟用、改裝、破壞、移除、停用等手段，使電子儀器上的任何程式、設置或零件達致限制連接互聯網的目的。



序

《網絡自由宣言》就
「網絡自由」、「網絡新聞自由」及「數碼經濟」三大範疇
闡釋共九項原則：

一，　開放、自由的網絡對現代社會中每一個人都極其重要，有助孕育文化、推動創新、利便社會各界的資訊交流、促進經濟發展；

二，　網絡媒體的重要性及影響力日益壯大，網絡媒體已經變成監察政府的中流砥柱。因此，網絡媒體記者的權益不應被歧視或削弱，網絡媒體應享有與其他媒體同等的待遇；及

三，　政黨亦應積極地敦促政府及機構肩負推廣自由網絡經濟及加強管治透明度的角色，藉此於現今的網絡世代，創造一個友善而負責任的營商環境。

因此，完善的網絡自由政策及政綱不但有助與一日千里的網絡世界與時並進，同時也能回應網民的訴求及捍衛他們在網絡上的權益。

前言

網絡自由對香港非常重要。網絡自由不僅是人權的一部份，更能帶動創新科技及促進經濟發展。因此，我們認為今年九月的立法會選舉，正是向各政黨及大眾推廣網絡議題自由的價值最佳時機。

然而，直至此《網絡自由宣言》（下稱《宣言》）發表前，我們並未發現有其他本地政黨、參政團體或人士，就網絡自由議題，提出長遠的政策藍圖。發表本《宣言》的目的，旨在為各政黨提供一份草擬有關網絡自由政策的指引，以便不同組織制訂其相關政策。

《網絡自由宣言》涵蓋三大範疇：「網絡自由」、「網絡新聞自由」及「數碼經濟」共九項原則，各原則下的分項均有清晰闡述。鍵盤戰線認為，《宣言》的三大範疇、九項原則不可或缺，因此各政黨、參政團體及人士於制訂與網絡自由有關的政策時，宜於其政綱中包括下列全部九大原則。然而各政黨、參政團體及人士仍可按不同條文與其參政理念的適切性斟酌採納。最後，鍵盤戰線會依據這九項原則，評價各政黨組織捍衛網絡自由的表現，並於2016年8月發表報告。

鍵盤戰線衷心希望《網絡自由宣言》能有助各方草議有關網絡自由的政策，並長遠而言推動網絡自由發展。



2016年6月



網絡自由宣言

INTERNET FREEDOM MANIFESTO 2016

